

Title	Uses of Denials and Admissions (amend Code of Civil Procedure section 2033)
Summary	The Judicial Council would sponsor legislation to amend section 2033 of the Code of Civil Procedure to include a provision clarifying the admissibility at trial of denials of requests for admissions.
Source	Civil and Small Claims Advisory Committee
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Discussion	<p>Code of Civil Procedure section 2033 (on requests for admission), unlike sections 2025(u) (on use of depositions) and 2030(n) (on the use of interrogatory answers), is silent on whether a propounding party can offer in evidence a denial from a requesting party. To clarify the law and make section 2033 consistent with other sections of the discovery code, it has been recommended that section 2033 be amended to include a provision on the use of denials of requests for admission at trials or hearings.</p> <p>Specifically, it has been recommended that the Judicial Council sponsor legislation to amend Code of Civil Procedure to add a new subdivision (p) to section 2033 to clarify that, so far as admissible under the rules of evidence, a propounding party or any other party than the responding party may use denials (as well as admissions) of requests of admission against a responding party at a trial or other hearing.</p> <p>New subdivision (p) of section 2033 is based on current subdivision (n) of section 2030. The proposed statutory amendment would clarify the law regarding the admission of admissions and denials of requests for admission as evidence at trials and hearings. It would also make section 2033 consistent with other provisions in the discovery code.</p> <p>Comments are invited on whether new subdivision (p) should be added to section 2033.</p>
	Attachment

LEGISLATIVE PROPOSAL

Code of Civil Procedure section 2033 would be amended to read:

1 **§ 2033**

2
3 **(a)–(o) * * ***

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5 **(p)** At the trial or other hearing in the action, so far as admissible under the rules
6 of evidence, the propounding party or any other party other than the responding
7 party may use any admission or denial of a request for admission only against the
8 responding party. It is not grounds for objection to the use of an admission or
9 denial of a request for admission that the responding party is available to testify,
10 has testified, or will testify at the trial or other hearing.